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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,611	09/29/2003	William J. Boyle	ACS 63641 (3386X)	6361
24201 7590 01/24/2008 FULWIDER PATTON LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE, TENTH FLOOR LOS ANGELES, CA 90045			EXAMINER PRONE, CHRISTOPHER D	
			ART UNIT 3738	PAPER NUMBER
			MAIL DATE 01/24/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10675611	9/29/2003	BOYLE ET AL.	ACS 63641 (3386X)

FULWIDER PATTON LLP  
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6060 CENTER DRIVE, TENTH FLOOR  
LOS ANGELES, CA 90045

**EXAMINER**

Christopher D. Prone

ART UNIT	PAPER
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3738

20080103

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Commissioner for Patents

See attached sheet

*CDP*  
CDP

***Response to Amendment***

The reply filed on 4/9/07 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): All claims are withdrawn as being directed toward a nonelected species. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Claims 1-4, 7-10, and 12-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/21/05. The claims require that the torque device is mounted directly on the guidewire, which is shown in figures 10A-B, nonelected species 9. The elected embodiment is species 11 represented by 12A-D, which shows the torque device mounted on the end of member 264. The elected embodiment is not capable of being directly mountable upon the guidewire because both of its lumens 285 and 282 are much bigger than the guidewire 28. The previous action was based on the examiner's broad interpretation of the term guidewire and language requiring that the torque device is mountable on the guidewire. The applicant argues that the torque member must be mountable directly to the guidewire not to the catheter, which is not the case in the elected embodiment. The elected embodiment could be considered to have the torque device directly mountable to the sheath or member 264, but not to a guidewire.

However neither the sheath nor member 264 can be considered a guidewire because the applicant has argued that a guidewire has specific structure and that any tube can not be construed to be a guidewire. After review of the applicant's arguments the participant's of the Pre-Appeal Brief decided that the art of record did not overcome the claims and that in view of the applicant's interpretation of the claim language the claims are no longer directed towards both species.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Prone whose telephone number is (571) 272-6085. The examiner can normally be reached on Monday through Fri 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher D Prone  
Examiner  
Art Unit 3738

  
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CORRINE McDERMOTT  
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TECHNOLOGY CENTER 3700